

Clean Water Act Section 404 Consultation

From: Laura Caballero
To: Angela De Paoli Conn
Date: 12/18/2008 8:14:37 PM
Subject: Bureau of Reclamation Building Replacement Project, Folsom, CA

Ms. De Paoli Conn,

The purpose of this e-mail is to comply with Section 404 of the Clean Water Act by initiating informal consultation with the Corps on a new project within the Folsom Dam Complex. The lead federal agency is the Bureau of Reclamation (Reclamation). The Bureau of Reclamation is proposing the construction of new facilities (Civil Maintenance and Administrative Buildings) at the Central California Area Office (CCAO) Headquarters in Folsom, California, in order to provide a safe, secure, accessible, and efficient site environment for CCAO staff and visitors. The new facilities would be sited to work with existing topography, paved areas, and roads to minimize earthwork, demolition, and construction costs. We have completed a Biological Assessment (see attached) and initiated formal consultation with the US Fish and Wildlife Service (Service) on Dec 17, 2008.

One of the elderberry shrub (shrub #17 in Figure 1) was identified by the Service as being within a riparian area. The project would include grading of a drainage ditch (at location of shrub #16 and #17 in Figure 1) that is only wet when it rains. This is a man-made ditch that only receives surface water run-off from the staging area (also identified in Figure 1). This surface water does not flow into the American River. I have also attached an aerial photo locating the ditch in relation to the American River (pdf file). The Service has made the determination that this shrub #17 is in a riparian area. A Willow and Cottonwood tree are located near the drainage ditch.

There is no ordinary high water mark because the ditch is filled in by rip-rap. There is occasional ponding during heavy rains which may seep into the ground water.

This man-made ditch would be filled and surface water redirected away from the new building via drainage pipes. Grading would result in approximately 10 cubic yards of fill.

Is there Corps jurisdiction? Do we need to send you an application for any permitting activity?

Thank you for your time and consideration. In order to stay on our current project schedule we would appreciate a reply to this e-mail by January 2, 2009.

Laura Caballero
Environmental Specialist
Bureau of Reclamation
7794 Folsom Dam Road
Folsom, CA 95630
Ph (916) 989-7172
Fax (916) 989-7208
Cell (916) 295-0694

CC: Daniel Netto; Edward Roza; Elizabeth Dyer; Jay Emami; Robert
Schroeder; Stacy Porter

From: Elizabeth Dyer
To: Caballero, Laura; Conn, Angela L SPK
Date: 12/22/2008 3:47:40 PM
Subject: RE: man-made Drainage - that connects to american river....

Hi Angela - Thanks for your help! I appreciate your efforts!

>>> "Conn, Angela L SPK" <Angela.L.Conn@usace.army.mil> 12/22/2008 3:29 PM >>>
Ms. Dyer,

After our phone call and now your email, I feel it is important to clarify the USACE process for determining jurisdiction and whether a permit is needed. As I said, I am not able to make an official determination either verbally or via email on whether there are waters within the project area, or if those waters are jurisdictional. Any official determination we make would be in the form of a letter.

During our process, the first step would be to make a determination on whether or not there are waters within the review area. If there are waters within the proposed project area, then we will make a determination on the jurisdictional status of those waters. However, you have not provided the information necessary for me to determine if there are waters within the review area, let alone if those waters are jurisdictional.

I understand that BOR does not believe that the drainage contains an ordinary high water mark (OHWM), and therefore does not believe that the drainage is a stream. However, we would need additional information, such as site photographs of the drainage, or possibly a visit to the site to make that determination. The Corps will need to make a determination if the drainage contains an OHWM, which would be determined in accordance with our Regulatory Guidance Letter 05-05, which can be viewed at:
<http://www.usace.army.mil/cw/cecwo/reg/rqls/rql05-05.pdf>.

In addition, a wetland delineation would need to be conducted on the site. BOR may hire a consultant to conduct the wetland delineation, or you can request that we conduct the wetland delineation. Please note that due to our current work load, we would not be able to conduct the wetland delineation for several months. The wetland delineation must be done in accordance with the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), as found on our website at:
<http://www.usace.army.mil/cw/cecwo/reg/trel08-28.pdf>.

Wetlands are defined at 33 CFR 328.3(b) as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." Your description of the site is not sufficient for us to make an official determination on whether there are wetlands within the proposed project area. The wetland delineation should include data points, providing information on vegetation, soils, and hydrology at the site, and include site photographs. If we receive a completed preliminary jurisdictional determination report, we can make a determination on if the proposed project site contains wetlands or other waters.

If we determine that the site does contain waters, then we would make a determination on whether or not the waters are jurisdictional, and if a

permit would be required for the proposed activity. However, as stated previously, we do not at this time have enough information to make a determination on whether there are waters on the site, if the waters are considered to be jurisdictional waters, or if the proposed activity would required DA authorization prior to construction.

At this point I feel it is best to refer you to my branch chief, Kathleen Dadey, if you have any further questions or need additional information. Ms. Dadey prioritizes and assigns permits and wetland delineations for her staff after receiving formal requests, such as a wetland delineation verification request or a permit application. At this time our office does not have either for your project.

Respectfully,
Angela De Paoli Conn, M.S.
Regulatory Project Manager
US Army Corps of Engineers
Regulatory Division, California South Branch
1325 J Street, Rm. 1480
Sacramento, California, 95814
(916) 557-6782, fax (916) 557-6877

-----Original Message-----

From: Elizabeth Dyer [mailto:elizabethdyer@mp.usbr.gov]
Sent: Monday, December 22, 2008 2:45 PM
To: Laura Caballero; Conn, Angela L SPK
Cc: Elizabeth Dyer
Subject: man-made Drainage - that connects to american river....

Hi Angela - Thanks again for taking the time out of your super busy schedule to discuss this project. This email is just to simply follow up on our discussion.

1) The man-made drainage does not exhibit wetland vegetation nor an OHWM. Because it does not exhibit the three parameters for a wetland (hydric soils, hydrology and hydrophytic plants, ie, OBL, FACW, or FAC) this area is not considered a "wetland".

2) Water that comes off of the street/ hills that flows into the man-made ditch - can pond in the area marked on the map - and but due to the type of soil in the area (decomposed granite) it doesn't form hydric soils. As a result, this site doesn't meet the three parameters for a wetland. No soils.

3) There is NOT an observable Ordinary High Water Mark in the man-made ditch. HOWEVER, the ditch is connected via a bunch of culverts to the American River. It is surmised that during heavy rain events, water from the man-made ditch could/does flow into the American River.

Based on the observation that, there is no OHWM in this man-made ditch but water could/does flow (surface sheet flows) during heavy rain events into the American River - "nexus" to the river - does the Corps take jurisdiction?

Thanks Angela!

Elizabeth (Beth) Dyer
Natural Resource Specialist
US Bureau of Reclamation
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630
office: 916-989-7256
fax: 916-989-7208
elizabethdyer@mp.usbr.gov

CC: Dadey, Kathleen A SPK

From: Laura Caballero
To: Angela L SPK Conn; Elizabeth Dyer
Date: 12/23/2008 11:11:48 AM
Subject: RE: man-made Drainage - that connects to american river....

Will do. Thanks very much, Laura

>>> "Conn, Angela L SPK" <Angela.L.Conn@usace.army.mil> 12/23/2008 11:06 AM
>>>

Laura,

Since we do not have a formal wetland delineation request or permit application for this project, this would be considered a new project. New projects are assigned to California South Branch staff by our branch chief, Kathleen Dadey. Therefore, at this time I am not the project manager for your proposed project, so any Environmental Assessments or FONSI's prepared by BOR should be sent to Ms. Dadey with the permit application and/or wetland delineation verification request for the project manager to review.

Please address your documents as follows:

U.S. Army Corps of Engineers
Kathleen A. Dadey, Ph.D.,
Chief, California South Branch
1325 J Street, Room 1480
Sacramento, CA 95814

Also just so you are aware, due the fact we are short staffed and with our current workload, project manager assignments are taking 30 days after we receive a request. I just wanted to make sure you understand this, since you will be receiving a letter from our office indicating just that.

I hope this information helps you with what you need. In the future please use our website,
<http://www.spk.usace.army.mil/organizations/cespk-co/regulatory/index.html> ,
to review or program requirements and answer some of your questions.

Respectfully,
Angela De Paoli Conn, M.S.
Regulatory Project Manager
US Army Corps of Engineers
Regulatory Division, California South Branch
1325 J Street, Rm. 1480
Sacramento, California, 95814
(916) 557-6782, fax (916) 557-6877

-----Original Message-----

From: Laura Caballero [<mailto:lcaballero@mp.usbr.gov>]
Sent: Tuesday, December 23, 2008 10:19 AM
To: Elizabeth Dyer; Conn, Angela L SPK
Cc: Dadey, Kathleen A SPK
Subject: RE: man-made Drainage - that connects to american river....

Thank you Beth and Angela for discussing Clean Water Act Section 404 compliance for the Central California Area Office Building Replacement Project. Beth and I will conduct a delineation today and provide you this information early January. Please provide the name and address where the delineation should be sent.

Angela, we will also send you the Draft Environmental Assessment/Draft FONSI for your review.

Thank you again for all your help!

Laura Caballero
Environmental Specialist
Bureau of Reclamation
7794 Folsom Dam Road
Folsom, CA 95630
Ph (916) 989-7172
Fax (916) 989-7208
Cell (916) 295-0694

>>> Elizabeth Dyer 12/22/2008 3:47 PM >>>

Hi Angela - Thanks for your help! I appreciate your efforts!

>>> "Conn, Angela L SPK" <Angela.L.Conn@usace.army.mil> 12/22/2008 3:29

PM >>>

Ms. Dyer,

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<http://www.usace.army.mil/cw/cecwo/reg/rgls/rgl05-05.pdf>.

In addition, a wetland delineation would need to be conducted on the site. BOR may hire a consultant to conduct the wetland delineation, or you can

Indian Trust Assets

>>> Patricia Rivera 1/20/2009 9:45 AM >>>
Laura,

I reviewed the proposed action to construct new facilities at Reclamation's Central California Area Office (CCAO) headquarters in Folsom, California, in order to provide a safe, secure, accessible, and efficient environment for staff and visitors. A Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) have been prepared and are available for public review and comment.

The site of the new facilities would be designed to work with existing topography, paved areas, and roads to minimize earthwork, demolition, and construction costs. Ample space would be provided for firefighting equipment access. Construction is planned to begin in spring 2009 and be completed by summer 2012. The Proposed Action would be implemented in two phases:

* Phase 1 - Construction of a new maintenance center in the vacant storage yard area, relocation and transfer of personnel and equipment to the new maintenance center, and removal of some of the existing maintenance buildings. The proposed maintenance center would consist of two interconnected pre-engineered metal buildings.* Phase 2 - Construction of a new CCAO administration building with adjoining staff and visitor parking, transfer of personnel to the new administrative building, and disposal of some of the existing administrative buildings. The proposed administration building would consist of two attached two-story rectangular structures.

The Draft EA and FONSI were prepared in accordance with the National Environmental Policy Act.

The proposed action does not affect Indian Trust Assets. The nearest ITA is Auburn Rancheria, which is approximately 39 miles NW of the project location.

Patricia

Chapter 5

List of Preparers

Table 5-1. List of Preparers

Laura Caballero Bureau of Reclamation Project Manager 20 years of experience in environmental planning and management	BranDee Bruce Bureau of Reclamation Architectural Historian 3 years of experience with cultural resources management
John Wondolleck CDM Associate 30 years of experience in resource development with expertise in management of multidisciplinary environmental programs	Hank Boucher CDM Associate 30 years of experience as environmental engineer and planner with expertise in, impact assessment, planning, transportation, land use development
Stacy Porter CDM Environmental Planner 5 years of experience in water resources planning and impact assessment	Patricia Reed CDM Environmental Scientist 8 years of experience in environmental planning and biological sciences
Jennifer Jones CDM Environmental Scientist 15 years of experience in biological sciences and environmental planning	Gwen Pelletier CDM Environmental Scientist 9 years of experience working on air quality projects
Alexandra Kleyman CDM Environmental Scientist 2 years of planning experience	Auturo Smith CDM GIS Specialist 14 years of experience specializing in cartographic design and GIS

Table 5-2. List of Contributors

Stephanie Rickabaugh U.S. Fish and Wildlife Service	Al Bernstein Bureau of Reclamation
Edward Roza Bureau of Reclamation	Jay Emami Bureau of Reclamation

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Chapter 6

References

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Central California Area Office Building Replacement Project
Environmental Assessment

USFWS. 2009. *Biological Opinion for the Central California Area Office Building Replacement Project, Sacramento, California, January 27, 2009.*